

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHELSEA HENDERSHOT,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DIANA SAUER,

Respondent-Appellant.

UNPUBLISHED

October 25, 2005

No. 260441

Genesee Circuit Court

Family Division

LC No. 02-114791-NA

Before: Cooper, P.J., and Fort Hood and Borrello, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j). We affirm.

Respondent argues that the trial court clearly erred in finding that clear and convincing evidence established two statutory bases for termination. We disagree. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been established by clear and convincing evidence. *In re CR*, 250 Mich App 185, 194-195; 646 NW2d 506 (2002). This Court reviews that finding under the clearly erroneous standard. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). On appeal, respondent focuses only on the evidence that could be construed in her favor. Respondent ignores the overwhelming evidence of: (1) her past inability to care for the child; (2) her lack of insight into her child's need and concomitant inability to address her child's anger; (3) the poor prognosis for change that was diagnosed by the majority of professionals who had worked with or evaluated respondent; (4) the negative and even dangerous effect her single-mindedness had on the child (her proposal to sedate the teenaged child to make her calm and compliant was especially chilling); and (5) her unrealistic perceptions of the child. As long as respondent continued to deny this overwhelming evidence, there was little expectation that any reconciliation could occur and termination was proper under both subsections 19b(3)(g) and (j).

Finally, respondent complains that the trial court was predisposed in favor of termination, as evidenced by certain comments made at the beginning of the trial and during the court's questioning of respondent. When reviewing a claim of improper judicial partiality, portions of the record should not be taken out of context, and the record must be reviewed as a whole.

People v Paquette, 214 Mich App 336, 340; 543 NW2d 342 (1995). In this case, a review of the whole record shows that the trial court did not improperly pierce the veil of judicial impartiality. If anything, the court was predisposed in favor of resolutions other than termination and its rigorous questioning of respondent was an attempt to ferret out the reasons for her continued denial of reality.¹

Affirmed.

/s/ Jessica R. Cooper
/s/ Karen M. Fort Hood
/s/ Stephen L. Borrello

¹ Respondent also alleged that the trial court abused its discretion by taking judicial notice of the minor child's statement in court that she did not want to live with respondent. Respondent alleges that there was no such record evidence. However, we note that all proceedings in the trial court were not transcribed and presented in the record on appeal. Moreover, this claim of error does not provide any relief to respondent. Any statement made by the minor child was cumulative to the testimony presented by the minor child's care workers. See *People v Rodriguez (On Remand)*, 216 Mich App 329, 332; 549 NW2d 359 (1996). Indeed, even respondent conceded that the minor child expressly stated that she did not want to be returned to respondent's care.